IMT Nuremberg Archives

H – 1149

International Court of Justice

M1149 - 0002

INTERNATIONAL
MILITARY TRIBUNAL

TRIAL BRIEF
AGAINST
THE DEFENDANT
RUDOLF HESS

ROBERT H. JACKSON
U. S. CHIEF OF COUNSEL

OF COUNSEL: KARL E. LACHMANN
ATTORNEY

Prepared by:
Office U. S. Chief of Counsel
Section V
Dr. R. M. W. Kempner, Chief

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A. SECTION OF THE INDICTMENT

(APPENDIX A, p. 28)

RUDOLPH HESS:

The defendant HESS between 1921 and 1941 was a member of the Nazi Party, Deputy to the Fuhrer, Reich Minister without Portfolio, member of the Reichstag, member of the Council of Ministers for the Defence of the Reich, member of the Secret Cabinet Council, Successor Designate to the Fuhrer after the defendant Goring, a General in the SS and a General in the SA. The defendant HESS used the foregoing positions, his personal influence and his intimate connection with the Fuhrer in such a manner that: he promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the military, economic and psychological preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation for Wars of Aggression and Wars in Violation of International Treaties, Agreements and Assurances set forth in Counts One and Two of the Indictment; he participated in the preparation and planning of foreign policy plans of the Nazi conspirators set forth in Count One of the Indictment; he authorized, directed and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

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LEGAL REFERENCES

I. JURISDICTION AND GENERAL PRINCIPLES

Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) CRIMES AGAINST PEACE: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

(b) WAR CRIMES: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) CRIMES AGAINST HUMANITY: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of domestic law of the country where perpetrated.

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Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

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STATEMENT OF EVIDENCE

I. POSITIONS HELD

(a) Between 1921 and 1941, defendant Hess held the following positions, as charged in the Indictment:

1. Member of the Nazi Party, 1920-1941

   3191-PS: Deutsches Fuehrer Lexikon (German "Fuhrer" Directory), (1934-5), p. 25.

2. Deputy to the "Fuhrer", 21 April 1933 to 10 May 1941

   3196-PS: Hitler Decree of 21 April 1933, in: N. S. Partei Korrespondenz (N. S. Party News), 27 April 1933, p. 1.

3. Reich Minister without Portfolio, 1 December 1933 - 10 May 1941

   3178-PS: Law to Secure the Unity of Party and State, 1 December 1933 (RGBl 1933, Part I, p. 1016).

4. Member of the Reichstag, 5 March 1933 - 10 May 1941

   3192-PS: Der Deutsche Reichstag (The German Reichstag), 1936, p. 180.

5. Member of the Council of Ministers for the Defense of the Reich, 30 August 1939 - 10 May 1941

   2018-PS: Decree of 30 August 1939 (RGBl 1939, Part I, p. 1539).

6. Member of the Secret Cabinet Council, 4 February 1938 - 10 May 1941

   1377-PS: Decree establishing a Secret Cabinet Council, 4 February 1938 (RGBl 1938, Part I, p. 111).

7. Successor Designate to the "Fuhrer", after the defendant "Goring", 1 September 1939 - 10 May 1941.

   3190-PS: Dokumente der Deutschen Politik (Documents of German Politics), Vol. VII/1, p. 264.

8. General in the SS

   3198-PS: N. S. Partei Korrespondenz (N. S. Party News), 26 September 1933, p. 6.

(b) Between 1919 and 1941, defendant Hess held the following additional positions:

9. Private Secretary and A. d. C. to Hitler, 1925-1932

   3192-PS: Der deutsche Reichstag (The German Reichstag), 1936, p. 180.

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10. Head of the Central Political Committee of the N.S.D.A.P., appointed 15 December 1932.

3132-PS: Volz, Dr. Hans: Daten der Geschichte der N.S.D.A.P. (Dates of the History of the N.S.D.A.P. (1939) p. 45.

11. Reichsleiter of the N.S.D.A.P. (Member of the Party Directorate)

3198-PS: N. S. Partei Korrespondenz (N. S. Party News), 26 September 1933, p. 6.

12. Member of the Reichs Defense Council.

2261-PS: Reichs Defense Law of 4 September 1938, para. 7 and 10 (Secret) (USA-24).

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II. PROMOTION OF THE ACCESSION TO POWER OF THE NAZI CONSPIRATORS (COUNT ONE (D) 1 and 3 (c) (2))

The Nazi Party was the Conspiracy's main instrument of control. As its directing head, defendant Hess used this instrument relentlessly to advance the purposes of the Conspiracy. He thus played a decisive and indispensable part in the preparation and execution of its criminal designs.

Defendant Hess began his conspiratorial activities immediately upon the termination of World War I by joining militaristic and nationalistic organizations. He became a member of the Thule Society and of the Free Corps Epp. In June 1920 he joined the Nazi Party, receiving Membership Card No. 16.

3191-PS: Deutsches Fuehrer Lexicon (German Führer Directory) (1934-5), p. 25.

3347-PS: Dienstaltersliste der SS (Service-Rank List of the SS) 1936, p. 5.

By 1923 the defendant was an SA leader and head of the Nazi University Organization in Munich. He took part in the Nazi Putsch of 8-9 November 1923. As a result he was tried and convicted on a charge of high treason.

3132-PS: Volz, op. cit., p. 15-16.

He spent 7½ months of his 18 months' sentence with Hitler at the Landsberg Fortress.

3191-PS: Deutsches Fuehrer Lexicon (German Führer Directory) (1934-5), p. 25.

There Hitler dictated "Mein Kampf" to him.

3132-PS: Volz, op. cit., p. 21.

After their release, defendant Hess remained extremely close to Hitler. In 1925, he became officially his private secretary and A. d. C.

3192-PS: Der Deutsche Reichstag (The German Reichstag) 1936, p. 180.

During the grave crisis of the Party which resulted from the sudden resignation of Gregor Strasser, head of the Party's Political Organization, in December 1932, Hitler called on Hess to take charge of the newly

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formed Central Political Committee of the Party, in order to restore its strength and unity.

3132-PS: Volz, op. cit., p. 45.

Shortly thereafter, the defendant took part in the decisive negotiations which brought the Nazi conspirators into power on 30 January 1933.

3132-PS: Volz, op. cit., p. 46.

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III. ESTABLISHMENT OF TOTALITARIAN CONTROL OVER GERMANY (COUNT ONE (D) 2., 3. (a), (e).)

Upon the conspirators' accession to power, Hess was appointed Deputy to the Führer of the NSDAP.

3196-PS: Hitler Decree of 21 April 1933, in: N. S. Party News, 27 April 1933, p. 1.

His broad powers and responsibilities in that position were officially described as follows:

"All the threads of the Party work are gathered together by the Deputy of the Fuhrer. He gives the final word on all intra-Party plans and all questions vital for the existence of the German people. The Deputy of the Fuhrer gives the directives required for all the Party work, in order to maintain the unity, determination and striking power of the N.S.D.A.P. as the bearer of the National-Socialist philosophy."

3163-PS: N. S. Jahrbuch (N. S. Yearbook) 1941, pp. 219-223, on the position of the Fuehrer's deputy.

3201-PS: Chart of the staff of the Führer's Deputy, from: Organisationbuch der N.S.D.A.P. (Organization Book of the N.S.D.A.P.) 4th edition, 1937, p. 151.

Through defendant Hess the Conspirators established the control of the Party over the State. As a first step he obtained a seat on the Cabinet which had in effect become the sole legislative organ of the Reich.

2001-PS: Law to Relieve the Emergency Affecting Nation and Reich of 24 March 1933 (RGBl 1933, Part I, p. 141), granting the Cabinet full legislative powers.

2426-PS: Hess:Reden (Hess' Speeches) (Munich 1938) p. 228, applauding the abolition of the parliamentary system.

1395-PS: Law to Secure the Unity of Party and State of 1 December 1933 (RGBl 1933, Part I, p. 1016), making Hess a member of the Cabinet, and ordering all government agencies to "lend legal and administrative assistance" to the Party agencies.

As a Cabinet Minister, defendant Hess signed the laws which further strengthened the political power of the Nazi Party.

2003-PS: Law of 1 August 1934 (RGBl 1934, Part I, p. 747) consolidating the positions of Chief of State and Leader of the Party.

1393-PS: Law of 20 December 1934 (RGBl 1934, Part I, p. 1269) against treacherous attacks on Party and State.

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By a long series of decrees defendant Hess obtained decisive control over every aspect of public and private life in Germany, in order to subvert it to the aims of the Conspiracy, as represented by the Party.

(1) Defendant Hess gained control over all legislation:

D-138: Hitler Decree of 27 July 1934 providing for Hess' participation in the drafting of all legislation.

D-139: Hess' circular to Cabinet members, 9 October 1939, stating that he would in the future veto every bill which reached him too late to allow him enough time for its thorough study from the Party point of view.

D-140: Letter by Chief of Reich Chancellery Lammers, 12 April 1938, announcing supplementary decree by which Hess' participation is extended, especially to the drafting of laws affecting individual States.

1942-PS: Hess' participation in legislative process. From: "Rechtseinrichtigung und Rechtsaufgaben der Bewegung" (Legal Institutions and Tasks of the Movement) by Dr. O. Gauweiler, p. 20.

(2) Defendant Hess gained control over all government appointments, including the Judiciary and University Teachers:

3180-PS: Decree of 24 September 1935 (RGBl 1935, Part I, p. 1203) providing for the consultation of Hess in the appointment of Reich and State civil servants.

3184-PS: Decree of 10 July 1937 (RGBl 1937, Part I, p. 769) providing for the participation of the Fuhrer's Deputy in the appointment of Reich and State civil servants.

3183-PS: Decree of 14 October 1936 (RGBl 1936, Part I, p. 893) signed by Hess, regulating the status of Reich and State civil servants.

3182-PS: Decree of 3 April 1936 (RGBl 1936, Part I, p. 373) providing for Hess' participation in the appointment of Labor Service officials.

(3) Defendant Hess gained control over Local Government Administration:

2008-PS: German Municipality Act of 30 January 1935 (RGBl 1935, Part I, p. 49) providing for the participation of Party delegates.

(4) Defendant Hess gained control over the administration of annexed territories:

3185-PS: Ordnance of 10 June 1939 (RGBl 1939, Part I, p. 995) providing for Hess' participation in administration of Austria.

3197-PS: Ordnance of 10 June 1939 (RGBl 1939, Part I, p. 997) providing for Hess' participation in administration of the Sudetenland.

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(5) Defendant Hess in his capacity as Deputy Leader of the Party gained control over the German Youth:

1392-PS: Decree of 1 December 1936 (RGBl 1936, Part I, p. 993) making membership in the Hitler Youth compulsory.

3132-PS: Volz, op. cit., p. 62-3, re: Order of 10 July 1934 setting up a University Commission of the NSDAP under Hess; Order of 18 July 1934 placing NS German Student League directly under Hess; and Order of 14 November 1934 delegating to Student League exclusive jurisdiction over political and ideological education of German students.

3203-PS: Hess Decree of 3 June 1936 establishing the NS Aid Fund for the Struggle in the Universities, reported in: Ruehle, Gerd, Das Dritte Reich (The Third Reich) Berlin, 1937, Vol. IV, p. 560.

3132-PS: Volz, op. cit., p. 67, reporting on Order of 24 July 1935 establishing the NS Faculty Association within the Party organization.

The success of this entire program of legislation was described by Hitler as follows:

"In this Reich everybody who has a responsible position is a National Socialist . . . Every institution of this Reich is under the orders of the supreme political leadership . . . The Party leads the Reich politically."

2715-PS: Hitler's Speech to the Reichstag, 20 February 1938, Das Archiv (February 1938) p. 1441-2.

1774-PS: Ernst Rudolf Huber, "Verfassungsrecht des Grossdeutschen Reiches" (Constitutional Law of the Greater German Reich) p. 3 of translation.

See: Trial Brief on "Consolidation of Control: Utilization and Molding of Political Machinery".

3163-PS: N. S. Yearbook 1941, pp. 319-322, on the position of the Fuhrer's Deputy.

In order to enable the conspirators to buttress their power through the armed terror of the SA and SS, defendant Hess, while not actually in control of these Party formations, nevertheless, gave them active support. Thus, he was instrumental in establishing the Hitler Grant (a large fund contributed annually by the heavy German industry under the chairmanship of Krupp) and to direct part thereof to support the SA and SS.

D-151: Hess' correspondence re Hitler Grant.

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When several SA men were convicted for mistreatment of inmates of the Hohnstein concentration camp, two jurors were expelled from the Party.

784-PS: Letters from Minister of Justice to Hess and SA Chief of Staff, 5 June 1935.

Finally, when Himmler, Reich Leader of the SS, established the SD (Security Division -- Political Police), defendant Hess issued an order which established the SD as the sole political information service of the Nazi Party, its functions to be exercised through the SS.

3385-PS: Hess Order of 14 December 1938 in: Verfügungen, Verordnungen Bekanntmachungen, (Decrees, Orders, Announcements), Vol. IV, p. 231.

Defendant Hess also sought to destroy the influence of the independent churches among the German people, in order to wipe out every last opposition to the aims of the conspirators.

Thus the defendant Hess's Chief of Staff, defendant Bormann, issued numerous orders and communications from defendant's office against the independent churches.

113-PS: Secret Order issued by Hess' office, signed Bormann, 27 July 1938, making clergymen ineligible for Party offices.

840-PS: Party Directive, 14 July 1939, making clergy and theology students ineligible for Party membership.

838-PS: Letter from Hess' Office, signed Bormann, 8 June 1939, referring to Hitler's Decree of 6 March 1939 which precluded Christian Scientists from joining the Party.

098-PS: Letter from Hess' office, signed Bormann, 22 February 1940, discussing ways and means of eliminating religious instruction from the schools.

070-PS: Report from Hess' office, signed Bormann, to Rosenberg, 25 April 1941, on the progressive substitution of National-Socialist mottos for morning prayers in the schools.

107-PS: Circular letter to Party officials, 17 June 1938, re non-participation of Labor Service personnel in religious celebrations.

101-PS: Letter from Hess' office, signed Bormann, 17 January 1940, to Rosenberg re: undesirability of religious literature for members of the Wehrmacht.

089-PS: Instructions from Hess' office, signed Bormann, 8 March 1940, against further issue of newsprint to confessional newspapers.

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675-PS: Letter from Hess' office to Minister of Interior, signed Bormann, May 1938, agreeing to the invalidation of the Concordat between Austria and the Holy See.

Defendant Hess added blasphemy to these persecutions of the churches when he asserted in a speech in Cologne on 25 June 1934:

"We believe that the Führer is fulfilling a divine mission to German destiny. This belief is without challenge."

2426-PS: Hess' Speeches, p. 25.

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IV. PREPARATION FOR WAR

(COUNT ONE, IV (D) 3 (f), (F), following: (a), (d), Count Two)

Defendant Hess was one of the members of the conspiracy who professed as early as 1933 that their aim was complete world domination.

2385-PS Affidavit of George S. Messersmith 30 August 1945, p. 5. (USA - 68)

In pursuance of that aim Defendant Hess threw the power of the Party which he directed, behind the war preparations of the conspiracy. The Defendant himself described the Party in this connection as the mechanism with which to "organize and direct offensively and defensively the spiritual and political strength of the people."

2426-PS Hess: Speeches, p. 247.

The Defendant's tasks in the preparation of these aggressive wars fell mainly into the fields of military preparedness, political planning and Fifth Column activities.

(a) Rearmament

Even before 1933 Defendant Hess took a personal interest in the secret military training program of the uniformed Party organizations.

1143-PS Letter from Schickedanz to Hess, 20 October 1932, re inclusion of NSDAP in secret Reichswehr flying program. (USA - 43)

After the conspirators had come to power, the Defendant was one of those who echoed the cry of "Guns for Butter" in his speeches.

2426-PS Hess: Speeches, p. 200.

Defendant Hess signed the law which reintroduced universal military conscription in Germany.

1654-PS Decree of 16 March 1935 (RGBl 1935, Part I, p. 369).

The defendant showed that signing this law was no mere formality for him, but rather the realization of one of his most important aims, when he declared in a speech to army officers in 1937:

> "When I spoke about conscription after the 16th of March 1935, in what used to be the most radical industrial plant of Munich . . . . . to thousands and thousands of the same workers who but a few years before had been singing the Internationale, I was interrupted again and again by such applause and cheers as I would never have believed possible. That was the most beautiful and at the same time the most moving demonstration of my life." (Emphasis supplied).

3124-PS Hess: Speeches, p. 240.

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When the Nazi conspirators were ready to launch their aggressive wars in the fall of 1938, defendant Hess and the Party Agencies under his control cooperated with the Army High Command in the mobilization of the German Army.

388-PS "Fall Gruen" (Schmundt file) Item 32, p. 56; Keitel letter to Hitler and Hess, 27 September 1938, providing for cooperation of Party agencies in mobilization. (Quoted on page 775 of official Court transcript) (USA - 26)

(b) Political Planning for War

When the Reich Defense Council was reorganized in 1938, Defendant Hess became one of its members with the express assignment of assuring "the political direction of the nation."

2261-PS Reich Defense Law of 4 September 1938, pars. 7 and 10. (Secret) (USA - 24)

See: Brief on "The Reich Cabinet".

The Defendant was also made a member of the Ministers' Council for the Defense of the Reich upon its creation in 1939. Here he continued to exercise an important war-planning function with the specific task of "guaranteeing the unity between Party and State" within that body.

2018-PS Decree of 30 August 1939 (RGBl 1939, Part I, p. 1539), creating the Ministers' Council for the Defense of the Reich.

2608-PS Frick's lecture on 7 March 1940 "The Administration in War Time".

See: Brief on "The Reich Cabinet".

The Defendant's functions in the field of political planning for war were not limited to the domestic sphere. He was also a member of the Secret Cabinet Council formed to advise Hitler on foreign policy planning.

1377-PS Decree establishing a Secret Cabinet Council, 4 February 1938 (RGBl 1938, Part I, p. 111).

3189-PS Dokumente der deutschen Politik (Documents of German Politics) Vol. VI/1, p. 4.

(c) Fifth Column Activities

Defendant Hess' most important contribution to the conspirators' preparations for aggressive war lay in his organization of the German Fifth

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Columns abroad through the Foreign Organization (Auslands-Organisation; AO) of the Nazi Party and its various affiliated semi-official organizations. Through these channels the defendant succeeded in building up conspiratorial shock-troops in foreign countries, composed of citizens of these countries who were of German "racial stock." These foreign citizens were incited by defendant Hess to acts of High Treason against their country in furtherance of the plans of the conspiracy. Thus the subversive activities of these Fifth Column groups prepared the destruction of their countries' independence by the conspirators. Principal among these were Austria, Czechoslovakia, and Poland.

As his chief instrument in this conspiratorial campaign defendant Hess created the Foreign Organization of the Nazi Party on 3 October 1933. This office was placed directly under defendant Hess who from then on was known to take the greatest personal interest in its rapid development and expansion.

3258-PS "National Socialism" (U.S. Government Printing Office, Washington 1943) p. 93-95.

3401-PS "National Socialism and German Folkdom Abroad": Voelkischer Beobachter, 24 May 1934, p. 2

2354-PS Chart showing the Foreign Organization of the NSDAP; from: "Organisationsbuch der NSDAP"(5th edition, 1938), p. 145.

The Foreign Organization extended its activities not only to German citizens living abroad but to all persons allegedly of German ancestry regardless of their foreign citizenship. In the early years after the conspirators' rise to power and up to 1937 this aim was openly admitted by the responsible heads of the Foreign Organization.

3258-PS Op. cit., p. 107-108.

Defendant Hess announced that it was the task of the Foreign Organization to organize all persons of the German race who lived abroad and to turn them into active Nazi supporters, thus making them subservient to the purposes of the conspiracy. In his speech at the 1937 Congress of the Foreign Organization, the defendant declared:

> "You stand before me as a slice of the great German racial community, the racial community which extends beyond the borders of our Reich for National Socialism has not only at home created a national community transcending all classes and groups in a way previously unknown, but it has also included German racial comrades /Volks-Genossen/ in foreign countries. It has made them conscious and

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proud members of this racial community! . . .

"Under the leadership of the Foreign Organization, Germandom abroad is also becoming more and more filled with the National Socialist spirit. The Foreign Organization of the NSDAP has brought together the Germans out there, who even long after the seizure of power were disunited and split by class differences, and joined them with Adolf Hitler's Reich. The National Socialist care for Germandom abroad is maintaining an enormous number of Germans for the nation, who otherwise would be absorbed as cultural fertilizer for other nations."

3258-PS Op. cit., p. 352 (original German text: pp. 338, 341).

The same principle was expressed bluntly and even blasphemously by Gauleiter Ernst Bohle, head of the Foreign Organization of the N.S.D.A.P. directly under defendant Hess from 1933 to 1945, who stated in his address at the Nurnberg Party Congress of 1936:

> "The Führer had to come in order to hammer into all of us the fact that the German cannot choose and may not choose whether or not he will be German but that he was sent into this world by God as a German, that God thereby had laid upon him as a German duties of which he cannot divest himself without committing treason to Providence. Therefore we believe and we know that the German everywhere is a German--whether he lives in the Reich or in Japan, in France or in China or anywhere else in the world. Not countries or continents, not climate or environments but blood and race determine the world of ideas of the German."

3258-PS Op. cit., p. 315 (original German text in: "Der Parteitag der Ehre" (The Party Congress of Honor) Munich 1936, p. 124).

Defendant Hess was also in control of all other semi-official organizations associated with the Foreign Organization in this Fifth Column work among foreign citizens of German ancestry, for the purpose of gaining foreign support for the plot of the conspirators.

837-PS Secret Circular by Hess, 3 February 1939, (ordering all organizations active in the foreign field to consolidate their undercover activities, subject to the central direction of SS Group Leader, Werner Lorenz, Head of the Volksdeutsche Mittelstelle) (Central Agency for Racial Germans).

The two most important of these semi-official agencies were the VDA (League for Germandom Abroad) and the DAI (German Foreign Institute). The VDA was a vast world-wide organization giving financial support to various activities of German groups abroad without regard to their nationality. Its large funds were collected in Germany with the aid of the Nazi Government.

3258-PS Op. cit., pp. 446-448: Official letter of defendant Frick dated 24 February 1933 (original German text: pp. 444-445).

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The aim of these activities of the VDA was to establish a great German world empire of 100,000,000 inhabitants, containing all persons of German "racial stock" everywhere, including millions of American citizens.

3258-PS Op. cit., pp. 114-115.

The DAI was a world-wide information intelligence and propaganda service.

3258-PS Op. cit., 122-123.

Defendant Hess repeatedly stressed the importance of using Germans abroad for spreading Nazi propaganda.

3124-PS Hess' Speeches, pp. 37-38, 264-265.

The DAI also based its activities on the proposition that all persons of German ancestry belonged to the Nazi German Reich, though they held citizenship in foreign countries. This was stated by Nazi Minister-President Mergenthaler of Wuerttemberg in his address at the 1933 annual meeting of the DAI:

> "The liberalist ideology which has been overcome dealt with the formal concept of the citizen. We have gotten rid of that. Today the blood-united German racial comrade stands in the center. That is the new foundation upon which we must build . . . . . Hence I want to impress on the DAI!: Join us therefore in taking care that the spirit of national socialism also becomes alive among the German racial comrades in foreign countries so that streams of energy may emanate from it."

3258-PS Op. cit., p. 126 (original German text: p. 454).

At the annual meeting held by the DAI in 1937, defendant Frick restated in his address the fundamental aim of this Organization: to unite every person of German "racial stock" under the control of the Nazi conspirators.

> ". . . the new Germany has recognized that its attention and devotion to the welfare of the millions of Germans who have not the fortune to owe political allegiance to Germany, but who are condemned to live abroad, are not merely a matter of natural sympathy and solidarity but are in a higher degree dictated by the strong political and economic interests of the Reich." (emphasis supplied).

3258-PS Op. cit., pp. 128-129.

It is especially noteworthy that the DAI was closely tied up with the German-American Bund, a revolutionary Nazi organization in the United States. Thus the DAI's official periodical, "Germandom Abroad", (Deutschtum im Ausland) was edited during the war by Walter Kappe, former press chief of the Bund.

3258-PS Op. cit., p. 124.

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Walter Kappe and Fritz Gissibl, another former leader in the Bund, established on the premises of the DAI in Stuttgart an organization called "Comradeship U. S. A." The purpose of this "Comradeship U. S. A." was to maintain during the war an organization for all Nazi Party members who had been active in the Bund in the United States.

3258-PS: Op. cit., pp. 276-277 (original German text; pp. 264-265.)

Even before the outbreak of the war, in the spring of 1939, Walter Kappe had undertaken to collect a complete archive of Nazi activities in the U. S. on behalf of the DAI and the Nazi Party.

3258-PS: Op. cit., p. 278 (original German text; p. 267.)

The success of this world-wide Fifth Column directed by defendant Hess is now a matter of historical record. The defendant himself guided the subversive foreign groups which he had created until the day when the countries which they had undermined were ready to be annexed by the conspirators.

Thus, the annexation of Austria was principally due to the efforts of the Nazi Party's work within that country under the orders of defendant Hess. As early as 1934 the defendant had appointed Reinthaler leader of the Nazi peasants in Austria, and thus placed him in a position to take over the leadership of the Nazi Fifth Column in Austria.

812-PS: Report from Rainer to Buerckel 6 July 1939 (quoted on pages 502 and 504 of official court transcript) (USA-61)

Defendant Hess took a major part in the negotiations carried on by defendant Seyss-Inquart and other members of the Conspiracy in preparation of the Anschluss.

3254-PS: Seyss-Inquart: "The Austrian Question", p. 9 of English translation.

3425-PS: Voluntary Statement made by Seyss-Inquart with advice of Counsel, 10 December 1945, p. 3 of English translation.

When on 12 March 1938 Germany invaded Austria, defendant Hess, accompanied by Himmler, was the first member of the Conspiracy to arrive in Vienna at noon on the same day.

L-292: Telegram of American Consul General in Vienna to Secretary of State, 12 March 1938. (quoted on page 586 of official Court transcript) (USA-78)

The next day defendant Hess signed the decree by which the conspirators destroyed the independence of Austria.

2307-PS: Decree of 13 March 1938 (RGBl 1938, Part I, p. 237)

3075-PS: Decree of 14 April 1939, (RGBl 1939, Part I, p. 777) on the government of Austria, signed by Hess.

Once the conspirators had achieved their aim, defendant Hess did not hesitate to admit publicly that he had approved of the steps which led to the final subjection of Austria. On 24 July 1938 he addressed a meeting held on the fourth anniversary of the assassination of Austrian Chancellor Dollfuss by members of the 89th SS Regiment. He devoted the larger part of his speech to a justification of that assassination.

L-273: Report of American Consul General in Vienna to the Secretary of State, 26 July 1938 (quoted on p. 487 of official Court transcript) (USA-59)

When the conspirators turned their attention to their next victim, Czechoslovakia, defendant Hess was again in the forefront directing the German Fifth Column in the Sudetenland. In his speech at the annual meeting of the Foreign Organization of the NSDAP on 28 August 1938, defendant Hess declared that Nazi Germany was giving full backing to the demands of the Sudeten German agitators. What such support meant in fact became very clear when defendant Hess pointed to the success of the Nazi policy in Austria.

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3258-PS Op. cit., pp.382-383.

All through the summer of 1938 defendant Hess was engaged in consultations with Karl H. Frank and Konrad Henlein, leaders of the Nazi Sudeten German Party.

3061-PS Supplement No. 2 to the Official Czechoslovakian Report, p. 5 of translation. (p. 932 of official Court transcript) (USA-126)

A few months later defendant Hess could mark up another success for his Fifth Column. When the Munich Agreement forced Czechoslovakia to surrender the Sudeten territory to Germany, the defendant went to Reichenberg, the capital of that district as Hitler's representative in order to accept the official incorporation of the Sudeten German Party into the Nazi Party on 5 November 1938. In his address on that occasion he emphasized repeatedly that the Nazi conspirators had been ready to go to war for the possession of the Sudetenland.

3204-PS Voelkischer Beobachter, 7 November 1938, p. 5.

The defendant also put his signature to the Act of 14 April 1939 setting up the government of the Sudetenland as an integral part of the Reich.

3076-PS Decree of 14 April 1939 (RGBl 1939, Part I, p. 780)

Later during the same year after the conspirators had loosed their first aggressive war, defendant Hess signed the laws incorporating first Danzig and then a large portion of Poland into the Reich.

3077-PS Decree of 1 September 1939 (RGBl 1939, Part I, p. 1547); Danzig.

3078-PS Decree of 8 October 1939 (RGBl 1939, Part I, p. 2042); Incorporated Polish territories.

3079-PS Decree of 12 October 1939 (RGBl 1939, Part I, p. 2077); Incorporated Polish territories.

Even, when in July 1941 the Nazi conspirators occupied Greece, the members of the local Nazi Party were ready to take over as an auxiliary Army service.

3258-PS Op. cit., p. 432.

Thus, wherever the conspirators sent their invading armies defendant Hess' Fifth Column had prepared the soil.

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V. PARTICIPATION IN WAR CRIMES AND IN CRIMES AGAINST HUMANITY

(COUNT ONE, IV (F) 6; COUNT THREE, COUNT FOUR)

Defendant Hess, as Deputy Leader of the Nazi Party, had the task of realizing its "ideological" program.

3200-PS: N.S. Jahrbuch (N.S. Yearbook) 1939, p.188-189

One of the inhuman demands of this Conspiratorial program was the destruction of so-called inferior racial stock. Persons who suffered from hereditary insanity or other herditary diseases were considered useless to the Nazi community; they were therefore to be killed or at least to be prevented from procreating their kind.

In order to carry out this plan defendant Hess established a special Racial Policy Division on his Staff under Dr. Walter Gross, by his order of 17 November 1933. This Division was to "participate with the competent government agencies in all race and population measures".

3322-PS: Organisationsbuch der NSDAP (Organization Book of the NSDAP) 1940, p. 330.

3163-PS: N.S. Jahrbuch (N.S. Yearbook) 1941, p.219-222

In addition, other agencies of the Nazi Party, under Defendant Hess, actively cooperated in the administration of this criminal program.

D-181: Circular of Gauleiter of South Westphalia, 21 January 1937, re Sterilization of the Insane.

842-PS: Correspondence between Party Officials, 30 December 1940, re Killing of the Insane.

1969-PS: Correspondence of Party Officials, 31 December 1940 and 4 March 1941, re Killing of the Insane.

In 1937 defendant Hess publicly claimed credit for having used his Party organization in order to gain the nation's approval for compulsory sterilization.

3124-PS: Hess: Speeches, p. 242.

3067-PS: Law of 14 July 1933 (RGBl 1933, Part I, p.529) on the sterilization of persons afflicted with endochrine insanity or other hereditary diseases.

More important still, on the Nazi Program as well as on the Conspirators' list of Crimes Against Humanity, were the persecution

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and extermination of religious and racial minorities. Defendant Hess vigorously affirmed the tenet of the superiority of the German race with which the Conspirators sought to justify these persecutions.

3124-PS: Hess: Speeches, p. 243

The Nurnberg Laws which constituted the legal basis of this campaign were the work of the Party. This was solemnly announced by Hitler in the peroration of the address in which he announced these laws to the Reichstag in Nurnberg 15 September 1935:

> "I now propose to the Reichstag the acceptance of those laws which Party member Goering will read to you.
>
> "The first and second laws fulfill the program of the National Socialist Party in one important respect, and thereby pay a debt of gratitude to the Movement under whose symbol Germany has regained her freedom.
>
> "The second law constitutes an attempt to solve by legislation a problem, the final solution of which, if it should again fail, will then have to be referred by law to the National Socialist Party. All three laws are backed by the National Socialist Party and with it and behind it by the German Nation.
>
> "I ask you to accept these laws."

3419-PS: "Der Parteitag Der Freiheit" (The Party Congress of Freedom) (Munich 1936) p. 258-259.

Thus, Defendant Hess, along with defendant Frick, was placed in charge of the administration of the Nurnberg Laws and of the issuance of Ordnances and Regulations thereunder.

1416-PS: Reich Citizen Law of 15 September 1935 (RGBl 1935, Part I, p.1146) (Art. 3), depriving Jews of their citizenship rights.

3179-PS: Law for the Protection of German Blood and Honor of 15 September 1935 (RGBl 1935, Part I, p. 1146) (Art.6) prohibiting mixed marriages and subjecting the Jews to certain disabilities.

1417-PS: Ordnance under the Reich Citizen Law, 14 November 1935 (RGBl 1935, Part I, p. 1333) depriving Jews of the right to vote and to hold public office.

2124-PS: Decree of 20 May 1938 (RGBl, 1938, Part I, p. 594) extending the Nurnberg Laws to Austria.

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With the launching of their aggressive wars, the Nazi Conspirators embarked on the execution of their plan to exterminate the non-German populations which fell into their hands. This plan, especially in so far as it concerned the Jews, had been bluntly revealed by Hitler well in advance in his address to the Reichstag on 30 January 1939:

> "If inter-national finance-Jewry inside and outside Europe should succeed in throwing the nations into another World War, the result will not be the Bolshevization of the earth and thus the victory of Jewry, but the destruction of the Jewish race in Europe!"

3418-PS: Das Archiv, January 1939, p.1605.

In support of this campaign, which was continued by his co-Conspirators after his departure, defendant Hess issued an Order through his Party Chancery on behalf of the SS which had been put in charge of the extermination program. In this Order, defendant Hess demanded the support of all Party members for the recruiting drive of the SS Army Corps (Waffen SS); the defendant added that these SS formations were scheduled for service in the Eastern occupied areas where their "special training in race matters" could be used to best advantage.

3245-PS: Order of 21 February 1940, in: "Verfügungen, Verordnungen, Bekanntmachungen" (Decrees, Orders, Announcements) 1937, Vol. III, p. 354.

By a series of further legislative and administrative measures, defendant Hess participated in the establishment of a special regime in Poland which deprived the inhabitants of that country of their legal protection, and thus initiated their wholesale extermination.

R-139: Correspondence between Hess' office and the Ministry of Justice concerning discrimination against Poles.

R-96: Correspondence of the Minister of Justice in preparation of the discriminatory decree of 4 December 1941, in which reference is made to Hess' suggestion to introduce corporal punishment against the Poles.

R-141: Minutes of Conference directed by Hess' assistants, in which extreme measures were planned for discrimination and persecution of the Poles.

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In pursuance of the same policy defendant Hess signed the Decree which forced certain groups of Polish citizens to surrender their original national allegiance and to accept German citizenship.

3118-PS: Decree of 24 October 1939 (RBGl 1939, Part I, p. 2077).

Defendant Hess also signed the Decree establishing the German Racial Register under which Allied nationals of German stock were registered and then compelled to accept German nationality and to remove to German territory.

2917-PS: Decree of 4 March 1941 (RBGl 1941, Part I, p. 118).

Defendant Hess also used the Party channels in order to incite the German people to violations of the rules of war. Thus he ordered that the population be instructed to seize Allied parachutists or to "liquidate them".

062-PS: Order of Defendant Hess, 13 March 1940.

Defendant Hess also issued instructions to enforce Hitler's orders prohibiting the reconstruction of the city of Warsaw or of any of Poland's destroyed industries.

EC-411: Order by Hess, 20 November 1939.

On 10 May 1941, defendant Hess flew to Scotland for the purpose of seeking the British Government's active or passive support in the invasion of U.S.S.R. territory, planned by the Nazi Conspirators for 23 August 1939. Upon his arrival, he was incarcerated and thus forcibly eliminated from further participation in the crimes of the Conspiracy.

D-614: Statement of British Secretary of State for Foreign Affairs in Parliament on 22 September 1943, p. 3.

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ARGUMENT AND CONCLUSION

Of all the members of the Nazi conspiracy, defendant Hess was closest to Hitler from the first. As Hitler's secretary and A.d.C., as his Deputy, and finally as his Second Successor Designate, the defendant was at all times his direct representative in all Party matters. Thus the conspiracy's most powerful instrument of political action rested in his hands.

He used this power to penetrate and dominate the German government administration with National Socialist functionaries; to control legislation and education; to persecute all independent groups, especially the churches and the Jews.

Being responsible for the political direction and control of the German people, through the Party, the defendant played a decisive role in preparing the nation for war. He furthered the secret rearmament of the Party's military formations; he signed the Conscription Law of 1935; he sat on the Reichs Defense Council, the inner Cabinet in which the heads of the conspiracy blue-printed the administrative, economic, and political preparation of their aggressive wars.

Defendant Hess above all, was responsible for the creation and direction of the Nazi Fifth Column in which foreign citizens of German extraction joined under the Nazi banner to weaken and undermine those countries which the Nazi conspirators had determined to subjugate.

All through these years, from 1920 to 1941, he remained the most faithful and relentless executor of Hitler's aims and designs. This complete devotion to the success of the conspiracy was climaxed by defendant's flight to Scotland in an attempt to receive support for the aggression and invasion of the U.S.S.R. he had helped to prepare.

The share of defendant Hess' participation in the Nazi Conspiracy is as great as that of the Party which he directed. The Party's crimes are his guilt.

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Rudolf Hess

INTERNATIONAL MILITARY TRIBUNAL

TRIAL BRIEF

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